## REMARKS/ARGUMENTS

Reconsideration and re-examination are hereby requested.

Claim 9 has been amended to correct informalities pointed out by the Examiner.

The Examiner has indicated that the Declaration under 37 CFR 131 presented with the response to the last office action failed to overcome Kodama (U. S. Patent Application Publication: US 2003/0160197) as a reference. The Examiner noted that the evidence in Exhibits A-N did not show a reduction to practice of the claimed subject matter "the first wall portion having a greater surface area than the surface of the second wall portion" in claims 1, 4, 9 and 12 prior to the effective date (Feb. 4, 2003) of the Kodema reference.

It is Applicant's position that the Exhibits show conception of the claimed subject matter (i.e., "the first wall portion having a greater surface area than the surface of the second wall portion") in claims 1, 4, 9 and 12 prior to the effective date (Feb. 4, 2003) of the Kodema reference. It is also Applicant's position that the Exhibits show diligence from a time prior to the effective date (Feb. 4, 2003) of the Kodema reference until the constructive reduction to practice of the invention i.e., until the filing date of the subject patent application on January 21, 2006.

More particularly, as pointed out in the Declaration:

> B. On or about January 01, 2003, it was decide to initially fabricate the valve shown in Figure 3 of Exhibit A with the two pistons forming portions of the walls of the chamber having the equal surface areas (i.e., a 1:1 ratio device). More particularly, we chose to make a 1 :1 ratio device as a matter of convenience because it allowed us to utilize our pre-existing hardware and supporting test fixtures. Although this prototype was realized at 1:1, ALL of our modeling and analysis documentation was focused on characterizing behavior on ratios greater than 1:1. For our purposes, the real value of hardware is to validate the relationships being modeled and the 1: 1 hardware was convenient for that purpose (confirm leakage / tolerance / viscous relationships, etc.). We then rely on the models to allow us to predict behavior at the ratio condition that is most appropriate for a given application, package space, etc.

Thus, from the Declaration, it is clear that the inventors decided that the best way to build a value with a ratio greater than 1:1 was to first build a valve with a ratio of 1:1. Thus, the activity of building of a value with a ratio of 1:1 was in the pursuit of build a value having a ratio greater than 1:1. As noted above: " ...we chose to make a 1:1 ratio device as a matter of convenience because it allowed us to utilize our pre-existing hardware and supporting test fixtures. Although this prototype was realized at 1:1, ALL of our modeling and analysis documentation was focused on characterizing behavior on ratios greater than 1:1. For our purposes, the real value of hardware is to validate the relationships being modeled and the 1: 1 hardware was convenient for that purpose (confirm leakage / tolerance / viscous relationships, etc.). We then rely on the models to allow us to predict behavior at the ratio condition that is most appropriate for a given application, package space, etc. "

In view of the foregoing, it is Applicant's position that the Exhibits show conception of the claimed subject matter in claims 1, 4, 9 and 12 prior to the effective date of the Kodema reference and also show diligence from the time prior to the effective date of the Kodema reference until the filing date of the subject patent application.

Therefore, reconsideration of the Declaration is respectfully requested.

In the event any additional fee is required, please charge such amount to Patent and Trademark Office Deposit Account No. 06-1510. If there are insufficient funds in this account, please charge the fees to Deposit Account No. 06-1505.

Respectfully submitted,

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Date

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